G. R. S. IX-5]

Previous references.

1893-4.

~~191~~

(Court)

Later references.

File No. 5- 1893

Serial Nos. 1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

~~Part~~ **B for**

SUBJECT.

Appeal against the order of acquittal passed by the Dt. Magistrate of Kadur, in a case of grievous hurt

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W D 88—GPB—50,000—24-7-16

Countermarked

C.I

1893.

From The Inspector General of Police in Mysore

To The Chief Secretary to the Government of Mysore

Dated 19th July 1893

Despatched

Received 20 JUL 93

General No. 228/28

Enclosures 3 & 2 Pls.

SUBJECT.

Requesting that the Government Advocate may be directed to present an appeal to the Chief Court against the order of acquittal passed by the District Magistrate of Kadur in a case of grievous hurt.

Recd 20/7

Mysore Govt. C.Press, Bangalore.—27-8-92—300

2

No. 228/28

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 19- July 1893

Enclosure. 3 & 2 files

From

The Inspector General of Police in Mysore,

To

The Chief Secretary to the Government of Mysore

1 file of criminal records in case No. 62 of 1892/93
1 file of Police papers.

SIR,

I have the honor to forward herewith records and copies of the letter addressed to the Government Advocate and his reply thereto regarding a case of grievous hurt committed in the Kadur District in which the accused was acquitted by the District Magistrate. The Government Advocate agrees with me in thinking that there has been a miscarriage of justice in this case and advises an appeal against the order of acquittal I therefore beg that you will move the Government to direct the Government Advocate to

present an appeal to the Chief
Court under section 417, Criminal
Procedure Code

I have the honor to be
Sir
Your most obedient Servant

M Madhavarao
Inspector General
of Police

Note by the Inspector General of Police in criminal case No 62 of 1892-93 on the file of the District Magistrate of Kadur (Thimmah ~~Hh~~ Siddah).

Hurt. Caused by Hatchet. He will have recovered on 21st ars. He pleaded guilty to voluntarily causing hurt and then absconded. He died on the 27th. It is quite possible to argue that the case was (but for the subsequent death) one of simple hurt.

This is a simple case of grievous hurt in which, after going carefully through the record, I feel that there has been miscarriage of justice through the District Magistrate failing to appreciate properly the evidence adduced.

The complainant Thimma, taking his cart from K to a market town, had left his cart at some distance on the Yedehally road and was sleeping on the pial of one David sab on the night of the 5th March 1893. Accused coming further on the road called him to go with him and while they were going in complainant's cart, Sidda (accused) is said to have struck him (Thimmah) with Thimmah's sickle which he had kept in his cart and run away with Rs 10/- which Thimmah had with him.

Thimmah who had been severely hurt and who was bleeding profusely immediately ran to the nearest village and called out for help. Three

Mussalma

Mussalman witnesses came out,
helped him back to his cart which
was on the main road and took
him straight to the Police station at
Yedehally. It was 4.30 or so when
Thimmah complained to the villagers.
The Police took down the statement
of the complainant, and sent him
for medical treatment. They learnt
that Sidda was the culprit and
he was arrested in his village and
brought at about 12 noon. Com-
-plainant gave a statement to
the police and also before the Deputy
Amildar. Accused made a confession-
-al statement before the Munsiff
Magistrate that same day and in
pursuance of that confession, the
accused's house was searched that
same evening and properties (exhibits I Hand E)
being cumbly, cloth and sickle belong-
-ing to complainant and which have
been identified by complainant
were found in places pointed out
by the accused.

The District Magistrate has
acquitted the accused because: —

(1) The statement of 6th witness regarding
the

the deceased (complainant) having gone with Sidda (accused) on the night in question was not worthy of credit,

(2) he disbelieved the search on the ground that there was hardly time between the offence and the accused's arrest for his secreting the articles found in 3 different places.

(3) that complainant was shewn by the Hospital Assistant not to have been in his senses when he gave his statement to the Deputy Amildar.

The District Magistrate has seriously erred in not having even noticed the confession recorded before the Munsiff Magistrate by the accused. The Police lost no time in searching the places indicated by the accused that same evening and in finding the blood-stained cloth and sickle and the cumbly as indicated by the accused. It is immaterial whether 6th witness saw deceased going with the accused. The deceased denounced the accused almost immediately after the attack on him. He was taken forthwith to the station where his statement was recorded by the Police and also by the Deputy Amildar.

The

The men that accompanied him were also examined and these said that he named Sidda as his assailant.

Sidda (accused) confessed and his statement corroborates that of the complainant. The Hospital Assistant was one of the Punchayetdars who noticed blood stains on his cloth when produced that afternoon. There was hardly time for the Police to concoct the evidence. In fact, the District Magistrate does not suggest how deceased could have been hurt otherwise than by Sidda. There is no hypothesis for defence.

I think there was ample time between 2 or 3 A.m. which must have been the hour of assault and 12 noon when Sidda was arrested, for him to have secreted the cumbly, cloth and sickle in three different places. His village is only 2 or 3 miles from the scene of the offence.

From the examination of the Hospital Assistant as recorded by the District Magistrate, it will be seen that the statement about deceased not being in his right senses was elicit-ed at a later stage and on the 2nd day

and

and possibly at the suggestion of the defence. The Deputy Amildar might have been questioned as regards the state of mind of com-plainant; and as regards 8th wit-ness' evidence, it is only natural that a man who had been severely injured should give his statement piecemeal.

The motive for the crime is explained in the confession of the accused before the Munsiff Magistrate. The accused and com-plainant appear to have quar-relled once before when the com-plainant struck the accused. The accused was watching for an opportunity to be revenged on the complainant and carried out his object on the night in question.

I hold that ample evidence is forthcoming from the statements of complainant and accused and the statements of witnesses to whom deceased appealed and the discovery of complainant's property regarding

whic

which there is no suspicion and which was discovered on information given by the accused himself to show that accused inflicted the injuries on the deceased.

8th July 1893. [signed] V. P. Madhava Rao
Inspector General
of Police

"Copy"

V P Madhava Rao
Inspector General
of Police

WS

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1/lc

(General Serial No. 30.)

1893.

From The Inspector General of Police in Mysore

To The Government Advocate

~~The Chief Secretary to the Dewan of Mysore.~~

Dated Bangalore 11th July 1893

Despatched

Received

Enclosures No. one & 1 file of records

General No. 100

No. 18

Sir,

I have the honor to forward herewith criminal records together with my note on a* case of grievous hurt in which the accused was acquitted by the District Magistrate of Kadur and to request the favor of your -

* Case No: 62 of 1892-93 on the file of the District Magistrate of Kadur

opinion as to whether it is a fit case for retrial

I have &c.

/signed/ V. P. Madhava Rao

Inspector General
of Police

"

Copy

/sd/ Madhava Rao

Inspector General
of Police

(General Serial No. 30.)

189

From The Government Advocate in Mysore

To The Inspector General of Police ~~The Chief Secretary to the Dewan~~ in Mysore.

Dated 13th July 1893

Despatched

Received

Enclosures No. 1 Record

General No. 104
No.

Sir,

With reference to your letter No. 100/18 of the 11th Instant, I have the honor to state that I am entirely in accord with the Inspector General in thinking that there has been a miscarriage of justice in this case, and that the accused was wrongly acquitted. I advise an appeal

against the order of acquittal.

2. The enclosure is herewith returned.

I have &c.

Signed/ S. Ramaswamy Iyer

For Government Advocate

Copy

/true/ [illegible]

Inspector General

of Police

616

Cts 5-1893 2 14

Cr. Appeal

Read -

Letter No. 228/28 dated 19th July 1893 from the Inspector General of Police in Mysore requesting that the Government Advocate may be directed to present an appeal to the High Court against the acquittal of one Siragalalé Siddha who was tried for the offence of voluntarily causing hurt with a dangerous weapon under Section 324 of the Indian Penal Code in Criminal Case No 62 of 1892-93 on the file of the District Magistrate of Kadur.

5609-10 Encls 2 files

Order 2616

The D.C. Magt. omitted to take into consideration the confession of the accused, which, if proved to have been made voluntarily, on which point the District Magt's judgment is silent, strongly supports the prosecution; following as the confession was by the actual discovery of the Complainant's clothes &c in the accused's house & other places pointed out by the accused. The confessional

Recommended that an appeal be preferred under the provisions of S 417 Cr P Code against the order of acquittal passed on this case

VCG/9/93 CM

statement recorded by the Presidy Magistrate is duly certified to have been made voluntarily and the accused offered no evidence to prove that it was not so made.

The Govt are therefore of opinion that this is a fit case for directing an appeal against the order of acquittal. The Govt advocate is requested to take the needful action as early as practicable. ~~The~~ having been order in question ~~was passed~~ passed nearly five months ago

Chief Secretary

To the Insp Genl of Police ~~with the records and~~ with his letter

Government advocate.

with the records in the case

recd from the Dy Insp of Police

21/9

recd: 4
retd: 23/9